

RULE AMENDMENT COMMITTEE WORK PLAN

**Chapter 173-95A WAC:
Uses and Limitations of the Centennial Clean Water Fund**

AND

**Chapter 173-98 WAC:
Uses and Limitations of the Water Pollution Control Revolving Fund**

March 22, 2006

Rule Amendment Committee Work Plan

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- I. **Background:** The Centennial Clean Water Program (Centennial) and the State Revolving Fund (SRF) rules were updated in 2000, with the goal of improving Ecology's flexibility in providing effective and efficient financial assistance to local governments. Now, five years later, the rules again need updating and clarification to respond to emerging needs.

Centennial: In 1986, the Washington State Legislature established the Water Quality Account in Chapter 71.46 RCW. The Centennial Clean Water Program (Centennial) is an account within the Water Quality Account. The Department of Ecology (Ecology) provides grants and loans to local governments and tribes for water pollution control facilities and water pollution control activities designed to prevent and control water pollution to our state's surface and ground water. Ecology's Water Quality Program has administered the Centennial program since its inception.

SRF: The United States Congress established the State Revolving Fund (SRF) program as part of the Clean Water Act Amendments in 1987. The Environmental Protection Agency (EPA) awards annual capitalization grants to Ecology, which administers the fund in the form of loans to local governments and tribes. The fund provides low-cost financing or refinancing for projects such as publicly-owned wastewater treatment facilities, nonpoint source pollution control projects, and comprehensive estuary conservation and management programs.

- II. **Problem Statement:** Many of the current rule provisions for the Centennial and SRF programs are outdated and do not accurately reflect emerging needs of stakeholders and clients. In addition, some rules have been interpreted inconsistently or in a way that does not adequately reflect legislative intent.
- III. **Goal:** The goal of the Rule Amendment Committee is to provide critical expertise in the development of rule amendment options. The options developed by the committee will be submitted to the Water Quality Program Management Team (PMT) for consideration in the continued integration of the SRF and Centennial funding program rules.

- IV. **Objectives:** The objectives of the Rule Amendment Committee Work Plan include:

Focusing funding on high priority projects that are consistent with:

- State and federal laws
- Water Quality Program goals and objectives
- Emerging stakeholder and client needs
- State auditor expectations in terms of accountability in the management of grant and loan programs
- Stakeholder and client needs

- V. **Workgroups and Time Requirements:** Two rule amendment committees have been formed:

- The Activities Rule Amendment Committee, and
- The Facilities Rule Amendment Committee

Both the Activities and Facilities committees will have the opportunity to comment on all five (5) of the major rule topics listed in Attachment E. Each major topic consists of subtopics. If additional topics for consideration are recommended during the committee process, those topics will be discussed with the Program Management Team (PMT). If the PMT agrees that the new topic

should be addressed by the Rule Amendment Committee, then that item will be included in one of the existing categories. There should be no surprises for the PMT.

Rule amendment committee members represent their regions as a whole. Regional recommendations should stem from close communication between rule amendment participants and regional supervisors and section heads.

All rule amendment options developed through this process will be submitted to the PMT for consideration, including the minority dissent.

To maximize state resources, the committees will usually meet at the same location on the same day. Separate meeting rooms will be provided to accommodate the two different groups.

Committee meetings may be held up to twice per month depending on committee progress. Please refer to Attachment D for the current committee timeline. Meetings will be scheduled in your Outlook calendars. Please try to keep your calendars current, and please delegate the appropriate authority in Outlook for other users to view your schedule.

The first three meetings will be located in Ellensburg, Washington. Subsequent meetings will be held in person or via conference call, depending upon committee preferences. It will be necessary for the committee members to meet in person at important milestones, such as working out the final draft and the final rule amendment options.

VI. Committee Leads, Facilitators, and Note Takers: Each committee should designate one committee lead to represent the committee regarding important milestones at various venues, such as Financial Assistance Council meetings or Program Management Team meetings.

Headquarters staff will facilitate each meeting and provide a note taker. For more information on roles and responsibilities, please see Attachment E.

VII. Outreach: Every effort will be made by the Water Quality Program Rule Amendment Team to foster communication and to keep the Rule Amendment Workgroup Committees up-to-date on important issues and events. This will be accomplished through updates at committee meetings as well as via e-mail and the WQ Rule Amendment Internet site.

Attachment A: Roles and Responsibilities

It is the responsibility of all participants in this process to provide input on options that are consistent with state and federal laws, Water Quality Program goals and objectives, emerging stakeholder and client needs, as well as state auditor expectations in terms of accountability in the management of grant and loan programs.

Water Quality Program Management (PMT)

The Water Quality Program Management Team will:

- Make final decisions on the rule options to be included in the final rule language.
- Coordinate with Ecology's Executive Management Team, including the Director and Deputy Director for final rule approval.

Ecology's Director must approve the new rules before rule implementation.

Water Quality Financial Assistance Council (FAC)

Ecology convened the FAC in 1995 to help steer the various water quality loan and grant programs to better respond to the emerging needs of Washington's communities. The Council includes representatives of a variety of local governments, tribal interests, special districts, state and federal agencies, and interest groups.

The Financial Assistance Council will:

- Review and provide feedback on draft rule options developed by the Technical Advisory Workgroup.

Ecology's Rules Unit

The Rules Unit consists of seven professionals available to help in a variety of ways. The Unit is administratively connected to Governmental Relations and is physically located in the Ecology Headquarters Building, 3rd Floor, Bay "A". The Rules Unit is working closely with the Water Quality Rule Amendment Team to assist with rule writing and can help the committee in the following ways:

- Review your rule options for clarity
- Organize your options before submitting to the WQ Rule Development Team
- Coordinate with Ecology's Plain Talk Team

Water Quality Program's Plain Talk Team

The Plain Talk Team will work closely with the Water Quality Rule Development Team in developing final rule language that is consistent with Executive Policy 1-81, *Establishing Plain Talk at Ecology*. See the list on the "Rule Language Writing Tips" document for a list of the Water Quality Program's Plain Talk team members.

Talk with your Plain Talk Team representative, who can offer valuable advice on how to clearly communicate the intent of developed rule option.

Rule Amendment Committee Workgroup

The committee is made up of Ecology staff from headquarters and the regions. Members work closely with the rule amendment target audience and can provide critical expertise on possible options.

The Rule Amendment Committee Workgroup will:

- Provide technical and financial expertise in the rule development process
- Work in subgroups to develop rule options
- Provide the WQ Rule Development Team with rule options to be considered by the PMT

Water Quality Rule Development Team

The Water Quality Rule Development Team consists of Policy and Administrative Unit staff from the Water Quality Program Financial Management Section at the Headquarters building in Lacey. The Team has a lead staff member for the SRF rule and a lead staff member for the Centennial rule. Team members are responsible for:

- Coordinating the primary rule amendment effort
- Communicating efforts to stakeholders and clients
- Assisting the Workgroup in developing rule options
- Consolidating the Workgroups' options into the final draft rule document and presenting it to the WQ PMT for final review and approval
- Authoring rule amendment documents, including Plans, focus sheets, briefing papers, etc.
- Submitting rule amendment documents
- Maintaining rule amendment files
- Writing the final rule language

Attachment B: Ground Rules

All participants in this process agree to extend professional and personal respect to others at all times through:

- Attentive listening
- Consideration of submitted public comments and other comments
- Clarification of issues through asking questions
- Consideration of different views
- Identification of the real problem
- Understanding of statutory and Legislative intent and limitations placed on funding programs
- Identification of appropriate experts to be consulted when necessary
- Identification of possible options/solutions
- Analysis of the consequences of all possible alternatives
- Ensuring that decisions are the best possible for the circumstances
- Communication of the reasons why options are recommended
- Understanding the difficulty of the rule amendment process
- Understanding the need to reach the best possible consensus

Attachment C: Overall Rule Development Schedule

Action	Target Date	Scheduled on:	Complete
Planning Phase			
RAD-SMT Briefing	September 2, 2005	September 2, 2005	September 2, 2005 Complete
RDP-Signed by Agency Rules Coordinator	September 7 or 21, 2005	September 9, 2005	September 20, 2005 Complete
PIO-Pre CR-101 meeting (4 weeks prior to filing CR-101)	Before SMT Briefing	September 1, 2005	September 1, 2005 Complete
CR-101 Filed, Notice of Inquire DS/Scoping Notice Filed in SEPA register, if required	September 21, 2005	Sept. 21, 2005	September 1, 2005 Filed
Drafting/Proposal Phase			
Workshops for initial comments (internal, external, and the Financial Assistance Council [FAC])	September, 2005 - February, 2006	October, 2005 4 locations within the state	October 11,12, 19, 20 - 2005 Complete
Establish Advisory Groups Financial Assistance Advisory Council	January 2006	September 2005 in advance	September 2005 Reaffirmed participation
Establish Technical Workgroups (See detailed work schedule for technical workgroups in the next table)	February 2006	February 28, 2006	On schedule
Technical Advisory Workgroups develop options for the Program Management Team to consider			
PIO - Pre-CR-102 meeting (4 weeks prior to filing CR-102) [press release announce upcoming hearing, also brief PMT]	January 24, 2007		
Important pre-meeting before next step Draft Rule to OTS (3 weeks prior to CR-102 filing)	January 31, 2007		
CR-102 Filed, Notice of Intent to adopt a rule (SBEIS, Draft DEIS/DNS, preliminary CBA, if required)	February 21, 2007		
CR-102 Published - deadlines critical after this step - 180 days	March 7, 2007		
Public Comment Phase			
Send out focus sheets and possibly hold public comment briefing workshop four (4) weeks before first hearing date	March 8 (?), 2007		

Rule Development Committee Plan

Action	Target Date	Scheduled on:	Complete
*Will provide possible locations and dates as soon as possible	*		
First Hearing Date	March 28, 2007		
Last Hearing Date	March 29, 2007		
Close of Comment Period (7 days after last Hearing)	April 6, 2007		
Adoption Phase			
PIO – Pre-CR-103 meeting (4 weeks prior to filing CR-103) - (also brief PMT and Deputy Director)	May 31, 2007		
Final Rule to OTS (3 weeks prior to filing CR-103)	June 7, 2007		
Adoption Date	June 28, 2007		
CR-103 Filed (Implementation Plan, CES)	June 28, 2007		
180 day cut-off for filing your CR-103	September 3, 2007		
Effective Date	July 29, 2007		
Implementation Phase			
Submit Rule File to the Rule's Unit	September 1, 2007		

Attachment D: Committee Rule Development Schedule

Technical Advisory Workgroup kickoff meeting in Ellensburg, WA (review process)	February 28, 2006 (Tuesday)
Follow up with the PMT to discuss expectations and regional involvement	March 7, 2006 (Tuesday)
Committee Meeting in Ellensburg	March 23, 2006 (Thursday)
Due date for deliverables? Discuss a reasonable due date for deliverables resulting from the March 23, 2006 meeting.	____/____/____
PMT Update	April 5, 2006 (Wednesday)
Committee Meeting in Ellensburg	April 11, 2006 (Tuesday)
Due date for deliverables? Discuss a reasonable due date for deliverables resulting from the April 11, 2006 meeting.	____/____/____
WQ Rule Development Team will send draft options that are ready to the Financial Assistance Council (FAC) for review	April 17, 2006 (Monday)
Committee Meeting	May 2, 2006 (Tuesday)
Due date for deliverables? Discuss a reasonable due date for deliverables resulting from the May 2, 2006 meeting.	____/____/____
WQ Rule Development Team will e-mail the draft options to the FAC and PMT as an update if needed.	May 16, 2006 (Tuesday)
WQ Rule Development Team will brief FAC at regular quarterly FAC meeting.	May 17, 2006 (Wednesday)
Committee conference call (<i>please meet together with your regional group in a conference room and call from one conference phone to avoid extra charges to Ecology for phone ports</i>). Call the following numbers: Facilities Committee: _____ Activities Committee: _____	May 24, 2006 (Wednesday)

Rule Development Committee Plan

Committee Conference Call (please gather with your regional group in a conference room and call from one conference phone to avoid extra charges to Ecology for phone ports. Call the following numbers: Facilities Committee: _____ Activities Committee: _____	June 6, 2006 (Tuesday)
WQ Rule Development Team will update the Program Management Team at the regular PMT meeting	June 7, 2006 (Wednesday)
Committee Meeting (location TBD)	June 20, 2006 (Tuesday)
Final Committee Meeting - All deliverables to be agreed upon by the end of this meeting (location TBD)	July 18, 2006 (Tuesday)
WQ Rule Development Team will e-mail rule options to the WQ Financial Assistance Council (FAC) for review	August 1, 2006 (Tuesday)
WQ Rule Development Team will attend quarterly FAC meeting to discuss rule options submitted by the Technical Advisory Group	August 16, 2006 (Wednesday)
WQ Rule Development Team will e-mail Committee members to communicate rule comments made by FAC	August 31, 2006 (Thursday)
WQ Rule Development Team will submit final rule options for consideration to the WQ Program Management Team	September 19, 2006 (Tuesday)
WQ Rule Development Team will attend the regularly scheduled PMT meeting to discuss the options	October 4, 2006 (Wednesday)
WQ Rule Development Team will work with Ecology's Rules Unit in writing the rule language - language will be approved by the PMT before submitting to the Rules Unit in January	October –December
Final rule language will be written and submitted to the Rules Unit at least 30 days before filing the CR-102 (filed Notice of Intent to adopt a rule)	January 1, 2007 (Monday)
CR-102 Filed Notice of Intent to adopt a rule (SBEIS, Draft DEIS/DNS, preliminary CBA if required)	February 21, 2007 (Wednesday)
Refer back to the General Rule Development Timeline to pick up where this leaves off (February 21, 2007).	

Attachment E: Five (5) Major Categories for Rule Amendment Considerations
(See the PowerPoint presentation provided in the packet for a discussion on these topics.)

The following major categories have been identified through the internal and external public review process for possible review, update, or revision:

1. Fund Structure

- SRF Interest Rates *“Perpetuity”*
- Hardship Provisions (including grants and loans)
- Timely Use of Funds (what constitutes progress?)

2. Allocation of Funds

- 2/3 Facilities, 1/3 Activities (safety net)
- Centennial Ceiling Grant Amount
- Percent of Grants and Grant Matching Requirements

3. General Eligibility

- Application Evaluation Criteria (new point allocations?)
- Funding List Cutoff
- BMPs on Private Property (upland BMPs used as In-kind match)

4. Engineering Initiatives

- Alternative Contracting (maximum loan amounts)
- Step 4 Design/Construct (raising the \$1 million cap)
- Stormwater (activities and facilities)
- Water Reclamation Facilities
- Value Engineering

5. General Housekeeping

- Applying “Plain Talk” Principles
- Clarifications on Existing Language